

Welcome to GSA Fleet's Desktop Workshop



Audio: Everyone is automatically muted. Listen via your computer audio if possible.



Presentation & Certificate: You can download a copy of the presentation at <https://www.gsa.gov/gsa-fleet-training>

Additionally, a copy of the presentation along with a certificate will be emailed after the session.



Questions: Use the Q&A window to ask questions at any time. You may get a typed response or it may be answered aloud at the end of the presentation.



Recorded: The session will be recorded.

Recordings of GSA Fleet Desktop Workshops are available at: <http://bit.ly/DtWRecordings>

Desktop Workshop

Federal Fleet Management Regulations Part 2

You can download a copy of this presentation at: <https://www.gsa.gov/gsa-fleet-training>

Presented by: Connie Aaron, GSA OGP
September, 2021

Federal Fleet Management Regulations

During **part one** of this Desktop Workshop we will:

- Explore how Federal regulations governing motor vehicle management fit into an overall framework of laws, regulations, and policies.
- Cover Federal Management Regulation (FMR) 41 CFR 102-34 Motor Vehicle Management and how it relates to your job as a fleet manager in the field.

During **part two** of this Desktop Workshop we will:

- Dive deeper into FMR 41 CFR 102-34 Motor Vehicle Management
- Discuss 102-5 Home to Work Transportation
- Cover frequently asked questions regarding official use, toll management, contractor use of government vehicles and much more!

Framework

- **Law**
- **Regulation**
- **Bulletin**
- **Agency Policy**
- **Executive Order**
- **OMB Circular**
- **Comptroller General Decisions**
- **Office of General Counsel Guidance**
- **Informed Decision-making**

Regulations

Federal Property Management Regulation & Federal Management Regulation (FPMR & FMR)

- **41 CFR 101-26.501 (Purchase of New Motor Vehicles)**
- **41 CFR 101-39 (Interagency Fleet Management Systems = GSA Fleet)**
 - **Currently in progress to be moved to the FMR**
 - **Significant amount of information has been migrated to GSA Fleet's Customer Leasing Guide**
 - https://drivethru.gsa.gov/help/Customer_Leasing_Guide.pdf

-
- **41 CFR 102-5 (Home-to-Work Transportation)**
 - **41 CFR 102-34 (Motor Vehicle Management)**
 - **41 CFR 102-39 (Replacement of Personal Property Pursuant to the Exchange/Sale Authority)**
 - **41 CFR 301 (Federal Travel Regulation)**

GOV, Agency Owned, Leased, Rentals, POVs...on my!

- GOV- government vehicle
- Agency owned- the agency owns the vehicle
- Leased- commercial or GSA Fleet- greater than 120 days requires GOV identification
- Rentals- GSA Fleet STR Program, Official Travel (TDY)- less than 120 days
 - DTMO is government-wide source for rentals for official travel
<https://www.defensetravel.dod.mil/site/rentalCar.cfm>
 - Look for the GARS fee on rental contract. Confirm that the “Government Administrative Rate Supplement” or “GARS,” a \$5 per day fee, is listed on the rental contract at the time of pick-up and will be charged during use of the rental vehicle. This ensures that you are renting through the Program and are eligible for program benefits, including insurance. The GARS fee is intended to cover those costs incurred by the rental car company that are peculiar to doing business with the government.
- POV- privately owned vehicle www.gsa.gov/pov for current reimbursement rates.



Can my agency mandate the use of GOVs vs POVs?

- **GSA does not regulate local travel**
 - Your agency has internal guidance on what mode of transportation is authorized for local travel to conduct official business.
 - GSA does publish the GOV reimbursements rates- www.gsa.gov/pov.
 - If a GOV is available, the reimbursement rate is reduced for use of the POV.
- **Some factors to consider when writing internal policy-**
 - Federal employees need to let their private insurance companies know if they are using a POV for Official business. It may require them to acquire additional insurance at their own expense. The POV reimbursement rate covers insurance so the Government can't provide this additional coverage.
 - Is the use of a POV advantageous to the Government? Is another Federal employee being displaced because a POV is being used- a POV and a GOV travel to job site which routinely would have been both employees in the GOV? Has a cost benefit analysis been completed?
 - Is the use of a POV being authorized due to an employee accommodation that can not be met with a GOV?
 - Is there an additional security issue for the Federal employee if a POV is authorized?

Can I use a GOV to...?

- Official use means using a vehicle to perform your agency's mission as *defined and **authorized by your agency***
- Contact agency fleet manager or general counsel for agency policy
- Personal liability (and DOJ defense) is based on local law under Federal Tort Claims Act
- Incidental use is a taxable benefit reported to the IRS; see <https://www.irs.gov/pub/irs-pdf/p5137.pdf>
- Perception- how would a taxpayer view the use of the vehicle?

Can I drive my GOV home for TDY purposes?

- **Agency Decision**
- **Home-to-Work regulations do not apply to employees on official travel**

Official travel orders must authorize GOV use

- **Advantageous to the Government**

Can I drive my GOV in a foreign country?

- Many foreign countries do not recognize the U.S. Government self-insurance
- If your agency is not covered under a SOFA or other diplomatic treaty which specifically addresses liability issues.
- General Counsel's office of GSA has determined that an agency must purchase additional liability insurance to operate vehicles in foreign countries
- The Federal Torts Claims Act does not protect Federal employees outside the United States
- Contact your agency's General Counsel's office for assistance
- If short duration trips, consider commercial rentals that are inclusive of insurance in foreign countries.

Can I transport a non-Fed in my GOV?

- **Governmentwide regulations are silent. But, your agency may have a policy**
- **Contact your agency fleet manager and/or general counsel for policy guidance**
- **Federal Tort Claims Act covers Federal employees in scope of employment**
- **Who would be liable if something happened?**
- **Is a Federal employee being displaced? In other words, is it costing taxpayers?**
- **Again: perception. How does it look?**

Can a contractor drive a GOV?

Applicable regulations:

- **41 CFR 102-34.21**
- **FAR 51.2- Contractor Use of GSA Fleet Vehicles**
- **41 CFR 101-39.202 Contractor Authorized Services**

Considerations:

- **Has the contracting officer authorized use of GOV's?**
- **Does the contractor have liability insurance?**
- **Do drivers have state drivers license for applicable vehicle type?**

As A Federal Fleet Manager, What Should I Take Into Consideration?

- **Is it advantageous to the government?**
- **Has the Contracting Officer authorized it?**
- **Has the contractor provided proof of insurance and a valid State license for the type of vehicle being operated?**
- **If using GSA Fleet leased vehicles, is the contractor obtaining and paying for the vehicles directly to GSA Fleet or using a leased vehicle provided by my agency? Or, is the contractor using an agency owned vehicle?**
- **How should I educate the agency drivers (Federal and Contractors) on their responsibilities to obey State and local traffic laws?**
- **Do the agency drivers (Federal and Contractors) know what to do if a vehicle breaks down or is in an accident?**
- **Who do you call for questions about contractor use of GOVs and POVs in your agency?**

Who pays for tolls?

Federal agencies are required to pay tolls

- **Reimbursable expense**
- **Agencies may set up accounts with "EZ Pass" or similar**
- **Tolls are not included in GSA Fleet lease rates**
- **Tolls may not be paid with GSA Fleet fuel card**
- **GSA Smartpay Office is neutral on which type of card your agency decides to use to pay for tolls.**

Can I use the express or hot lane in a GOV?

- **Drivers do have to pay for any tolls incurred while driving a GOV**
- **GSA does not regulate local travel**
- **Agency decision**
 - **Mission essential**
 - **Saves government time and money**
 - **Not for the convenience of the employee**
- **Agency policy also dictates whether use the purchase, travel or fleet card- GSA Smartpay neutral**
- **Home to Work Transportation- proximity of work location to home and cost analysis**

Who pays for the traffic, parking or toll violations?

Employees are personally responsible for tickets/fines

- **NOT a reimbursable expense**
- **Appropriated funds may not be used**
- **Tickets mailed to agency must be delivered to employee**

What is the policy on the use of handheld devices while driving a GOV?

- **EO 13513 prohibits:**
 - **texting while driving a GOV**
 - **texting in a POV if using government furnished equipment**
- **FMR Bulletin-B2 advised agencies to develop a policy recommending use of wireless devices**
- **Many agencies have more restrictive policies on using devices while driving a GOV**
- **Federal employees must obey all State and local laws and ordinances while driving a GOV**
- <https://www.iihs.org/topics/distracted-driving#cellphone-laws>

Can I carry a personal firearm in a GOV?

- **18 U.S. Code Chapter 44 - FIREARMS**
 - **Defines the terms**
 - **Possession of firearms and dangerous weapons in Federal facilities**
- **Agency Decision**
- **Must obey all State and local laws**

What about localities that have legalized marijuana?

- **Agency policy**
- **Must take into consideration that marijuana is still a Schedule I controlled substance under the Controlled Substance Act**

Is the use of E-Cigarettes allowed in GOVs?

- FDA [final rule](#) took effect in August 2016 which defines e-cigarettes as tobacco products.
- The use of electronic alternatives that produce nicotine or other vapors is also prohibited in federally owned or leased buildings.
- Agencies should write internal policies on the prohibited use of tobacco products in federal vehicles to include electronic alternatives that produce nicotine or other vapors.

What about ELDs? Electronic Logging Devices

- **Federally owned and operated vehicles (not for hire contractors) are not subject to the Federal Motor Carrier Safety Regulations (49 CFR 390-399)**
 - **Exempt from medical requirements and hours of service requirements**
 - **They are not considered “in commerce” as governmentally owned and operated vehicles and drivers.**
- **If you have a contractor operating a government vehicle, they are subject to the Federal Motor Carrier Safety Regulations.**
- **Note- The CDL and Drug and Alcohol Regs (49 CFR 382 and 383) would apply if Federal driver is operating certain size vehicle.**
- **For more information, contact FMCSA- Bill.Mahorney@dot.gov**

What about insurance?

- Long standing policy of the Government to self-insure its own risk of loss.
- Federal Torts Claims Acts protects Federal employees from personal liability while acting within the scope of their employee to accomplish their agencies mission.
- Yes, you may be personally liable for an accident if you are found to be operating the vehicle outside the scope of your employment!
- All Tort claims are automatically transferred to the Justice Department. Don't assume your agency has you covered.

What's with the OF 346?

US Government Motor Vehicle Identification Card

- It was cancelled in June 2020 because the form had no sponsoring agency.
- But, was REINSTATED in July 2020 after DOD agreed to sponsor the form.
- <https://directives.whs.mil/forms/eforms/OF346.PDF>
- Contact the DoD Forms Management Program via e-mail at whs.mc-alex.esd.mbx.dd-dod-forms@mail.mil for more info.

Home to Work Transportation (HTW)

41 CFR 102-5 Home to Work Transportation

- HTW for employees is generally **NOT** allowed
- Employees may be approved HTW by the head of the agency for—
 - Field work (up to 2 years)
 - Clear and present danger (15 days)
 - Compelling operational consideration (15 days)
 - Emergency (15 days)
 - Approved by person or specific job position
- Approval authority **may not** be delegated!
- **Field work** means official work requiring the employee's presence at various locations other than his/her regular place of work. (Multiple stops within the accepted local commuting area, limited use beyond the local commuting area, or transportation to remote locations that are only accessible by Government-provided transportation.)

Home to Work Transportation (HTW)

41 CFR 102-5 Home to Work Transportation

Employees not covered by HTW:

- **Employees who are on official travel (TDY); or**
- **Employees who are on permanent change of station (PCS) travel; or**
- **Employees who are essential for the safe and efficient performance of intelligence, counterintelligence, protective services, or criminal law enforcement duties when designated in writing as such by their agency head.**

Home to Work Transportation

Virtual Workers/Telework

- Oh so complicated...
- Each agency handles virtual workers a little differently with regards to home to work transportation.
- Contact your agency's General Counsel's office for assistance on this issue.
- Option to park at an alternate location such as the local Post Office or nearby Federal facility.
- HTW, Virtual Workers and EVs- oh my! Stay tuned!

41 CFR 301 Temporary Duty (TDY)

How does the FTR relate to fleet management?

Travel Allowances

- Defines methods of transportation agency may authorize for TDY including government vehicles.
- Agency must select the method most advantageous to the Government, when cost and other factors are considered.
- For what purposes may a government vehicle used while TDY? Only official purposes which include transportation: Between places of official business; Between such places and places of temporary lodging when public transportation is unavailable or its use is impractical; Between either paragraph (a) or (b) of this section and restaurants, drug stores, barber shops, places of worship, cleaning establishments, and similar places necessary for the sustenance, comfort, or health of the employee to foster the continued efficient performance of Government business; or as otherwise authorized by your agency under 31 U.S.C. 1344.

41 CFR 301 Temporary Duty (TDY)

How does the FTR relate to fleet management?

FAQ- How many miles can I drive a GOV in one day?

- **Official travel orders?**
- **Most advantageous mode of transportation selected?**
- **Driver Fatigue- not regulated by GSA.**
 - **Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) regulates drivers with commercial driver's licenses (CDLs) and the hours of service**
 - **<http://www.fmcsa.dot.gov/rules-regulations/topics/hos/index.htm>**

Cool Things in Fleet Management

vehicle.policy@gsa.gov

Please email a picture of your vehicles in action!



Thank you for attending today's Desktop Workshop

For additional information on this topic contact:

vehicle.policy@gsa.gov

Looking for more federal fleet training?

- Check out the Federal Fleet Manager Certification Program - www.gsa.gov/ffmcp
- Register for future GSA Fleet Desktop Workshops - gsa.gov/gsa-fleet-training
- View pastDesktop Workshops at <http://bit.ly/DtWRecordings>



Fleet[®]